

BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement of License of:

LUCINE SAROYAN,

Petitioner.

OAH No. 2011050296

DECISION

This matter was heard before a quorum of the Board of Vocational Nursing and Psychiatric Technicians in Oakland, California, on May 19, 2011. Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, presided.

Jonathan Cooper, Deputy Attorney General, represented the Department of Justice, Office of the Attorney General.

Petitioner Lucine Saroyan was present and was represented by Brendan Conroy, Attorney at Law.

FACTUAL FINDINGS

1. Petitioner Lucine Saroyan was issued vocational nurse license number VN 187261 on February 5, 1999. In a decision effective December 19, 2004, petitioner's license was revoked upon the following findings. Based upon an incident in 1999 when she slashed her four-year-old daughter's wrists, in 2001 petitioner entered a plea of guilty to a charge of attempted murder but was subsequently found not guilty by reason of insanity. She was committed to a state mental hospital for a maximum term of 16 years. At the time of her disciplinary hearing in 2004 petitioner was still confined to a mental hospital. She acknowledged that although she was regularly taking medication for a schizoaffective disorder and was a different person than at the time of her offense, she was still not sane or safe to practice nursing.

2. Petitioner filed this petition for reinstatement of her license on February 9, 2011.

3. Petitioner began treatment for her mental illness in San Francisco County Jail following her arrest in 1999. Her treatment continued during the seven months she was confined at Patton State Hospital and the four years she was confined at Napa State Hospital. Released from the hospital under the Golden Gate Conditional Release Program, petitioner then participated in a number of outpatient treatment programs. In June 2010, the Superior Court found that petitioner's sanity had been restored and her 2001 commitment was vacated.

4. Petitioner's circumstances have changed dramatically since her license was revoked in 2004. In addition to completing her mental health treatment and having had her sanity restored, petitioner has actively participated in Alcoholics Anonymous, has completed the Health Information Technology program at City College of San Francisco, where she received her Associate of Science degree in that field in 2008, has undertaken continuing education classes, has maintained steady employment, and has restored her relationship with her daughter, who is now 16.

5. Petitioner remains under the care of Licensed Marriage and Family Therapist Martha C. McNeil and psychiatrist Daniel Dinaburg, M.D. Petitioner has been seeing Ms. McNeil in weekly psychotherapy sessions since October 2009. Petitioner sees Dr. Dinaburg once a month for therapy and medication monitoring. Both practitioners strongly support the reinstatement of petitioner's license.

6. Petitioner has demonstrated that it would not be against the public interest to reinstate her license upon appropriate terms and conditions, including that she continue with her psychotherapy and medication.

LEGAL CONCLUSIONS

Petitioner established to the satisfaction of the board that it would not be against the public interest to reinstate her license upon specified terms and conditions. Because she has not worked in nursing for a number of years, petitioner must retake and pass the licensing examination before reinstatement of her license.

ORDER

The petition of Lucine Saroyan is granted. However, before her license can be restored and she can resume practice, petitioner must comply with the following condition:

Petitioner shall, within two years from the effective date of this decision, take and pass the licensure exam currently required of new vocational nurse applicants. Petitioner shall pay the established examination fees.

Upon successful completion of the foregoing condition, petitioner's license shall be restored. The license shall then be immediately revoked, the revocation shall be stayed,

and petitioner shall be placed on probation for three years upon the following terms and conditions:

1. **Obey All Laws** – Petitioner shall obey all federal, state and local laws, including all statutes and regulations governing the license. Petitioner shall submit, in writing, a full and detailed account of any and all violations of the law, including alleged violations, to the board within five days of occurrence.

To ensure compliance with this condition, petitioner shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 days of the effective date of this decision, unless the board determines that fingerprints were previously submitted by petitioner to the board.

Petitioner shall also submit to the board a recent 2" x 2" photograph of herself within 30 days of the effective date of this decision.

If petitioner is under a criminal court order, including probation or parole, and the order is violated, it shall be deemed a violation of these probation conditions.

2. **Compliance with Probation Program and Quarterly Report Requirements** – Petitioner shall fully comply with the conditions of the probation established by the board and shall cooperate with the representatives of the board in its monitoring and investigation of petitioner's compliance with the probation program.

Upon successful completion of probation, petitioner's license will be fully restored.

3. **Submit Written Reports** – Petitioner shall submit or cause to be submitted, under penalty of perjury, any written reports, declarations and verification of actions as required by the board or its representatives. These reports or declarations shall contain statements relative to petitioner's compliance with all the conditions of the board's probation program. Petitioner shall immediately execute all release of information forms as may be required by the board or its representatives.

In the first report, petitioner shall provide a list of all states and territories where she has ever been licensed as a vocational/practical nurse, psychiatric technician, or registered nurse. Petitioner shall provide information regarding the status of each license and any change in license status during the period of probation. Petitioner shall inform the board if she applies for or obtains a new nursing or psychiatric technician license during the period of probation.

Petitioner shall provide a copy of the board's decision to the regulatory agency in every state or territory in which she has applied for or holds a vocational/ practical nurse, psychiatric technician and/or registered nurse license.

4. **Notification of Address and Telephone Number Changes** – Petitioner shall notify the board, in writing, within five days of any change in address or telephone number(s).

Petitioner's failure to claim mail sent by the board may be deemed a violation of these probation conditions.

5. **Notification of Residency or Practice Outside of State** – Petitioner shall notify the board, in writing, within five days, if she leaves California to reside or practice in another state. Periods of residency or practice outside of California shall not apply toward a reduction of this probation time period. If petitioner resides or practices outside of California, the period of probation shall be automatically extended for the same time period she resides or practices outside of California. Petitioner shall provide written notice to the board within five days of any change of residency or practice.

Petitioner shall notify the board, in writing, within five days, upon her return to California.

6. **Meetings with Board Representatives** – Petitioner shall appear in person at meetings as directed by the board or its designated representatives.
7. **Notification to Employers** – When currently employed or applying for employment in any capacity in any health care profession, petitioner shall notify her employer of the probationary status of petitioner's license. This notification to petitioner's current health care employer shall occur no later than the effective date of this decision. Petitioner shall notify any prospective health care employer of her probationary status with the board prior to accepting such employment. At a minimum, this notification shall be accomplished by providing the employer or prospective employer with a copy of the board's accusation and disciplinary decision.

The Health Care Profession includes, but is not limited to: Licensed Vocational Nurse, Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical health care positions.

Petitioner shall cause each health care employer to submit to the board all performance evaluations and any other employment related reports as required

by the board. Petitioner shall notify the board, in writing, of any difficulty in securing employer reports within five days of such an event.

Petitioner shall notify the board, in writing, within five days of any change in employment status. Petitioner shall notify the board, in writing, if she is terminated or separated, regardless of cause, from any nursing or health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. **Employment Requirements and Limitations** – Petitioner shall work in her licensed capacity in the state of California. This practice shall consist of no less than six continuous months and of no less than 20 hours per week.

Petitioner shall not work for a nurses' registry or in any private duty position, a temporary nurse placement agency, as a faculty member in an accredited or approved school of nursing, or as an instructor in a board approved continuing education course except as approved, in writing, by the board. Petitioner shall work only on a regularly assigned, identified and predetermined work site(s) and shall not work in a float capacity except as approved, in writing, by the board.

9. **Supervision Requirements** – Before commencing or continuing employment in any health care profession, petitioner shall obtain approval from the board of the supervision provided to petitioner while employed.

Petitioner shall not function as a charge nurse (i.e., work in any healthcare setting as the person who oversees or directs licensed vocational nurses, psychiatric technicians, certified nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during the period of probation except as approved, in writing, by the board.

10. **Completion of Educational Course(s)** – Petitioner, at her own expense, shall enroll in and successfully complete a course or courses substantially related to the violation(s) no later than the end of the first year of probation.

The coursework shall be in addition to that required for license renewal. The board shall notify petitioner of the course content and number of contact hours required. Within 30 days of the board's written notification of assigned coursework, petitioner shall submit a written plan to comply with this requirement. The board shall approve such plan prior to enrollment in any course of study.

Upon successful completion of the course, petitioner shall submit "original" completion certificates to the board within 30 days of course completion.

11. **Maintenance of Valid License** – Petitioner shall, at all times, maintain an active current license with the board including during any period of suspension

If an initial license must be issued (Statement of Issues) or a license is reinstated, probation shall not commence until a license is issued by the board. Petitioner must complete the licensure process within two years from the effective date of this decision.

Should petitioner's license expire, by operation of law or otherwise, upon renewal or reinstatement, petitioner's license shall be subject to any and all conditions of this probation not previously satisfied.

12. **Cost Recovery Requirements** – Petitioner shall pay to the board the balance of the costs associated with the investigation and enforcement of her previous disciplinary decision pursuant to Business and Professions Code section 125.3 in the amount of \$2,340.50.

13. **License Surrender** – During probation, if petitioner ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the conditions of probation, petitioner may surrender her license to the board. The board reserves the right to evaluate petitioner's request and to exercise its discretion whether to grant the request without further hearing. Upon formal acceptance of the tendered license, petitioner will no longer be subject to the conditions of probation.

Surrender of petitioner's license shall be considered a disciplinary action and shall become part of petitioner's license history with the board. A licensee who surrenders her license may petition the board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision for the surrender:

- Three years for reinstatement of a license surrendered for any reason other than a mental or physical illness; or
- One year for a license surrendered for a mental or physical illness.

14. **Violation of Probation** – If petitioner violates the conditions of her probation, the board, after giving petitioner notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of petitioner's license. If during the period of probation, an accusation or petition to revoke probation has been filed against petitioner's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against petitioner's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the board.

15. **Psychotherapy** – Within 60 days of the effective date of the decision, petitioner shall submit to the board the name of one or more proposed therapists for prior approval. Petitioner shall participate in ongoing psychotherapy with a California licensed or legally registered mental health professional who has been approved by the board. Petitioner shall provide the therapist with a copy of the board's disciplinary order no later than the first therapy session. Therapy sessions shall be at least once a week unless otherwise determined by the board. Petitioner shall continue in such therapy at the board's discretion. The cost of such therapy shall be paid by petitioner.

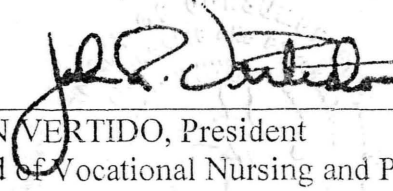
Petitioner shall cause the therapist to submit to the board a written report concerning petitioner's psychotherapy status and progress as well as such other information as may be requested by the board. The initial psychotherapy report shall be submitted in a format acceptable to the board within 90 days from the effective date of the decision. Petitioner shall cause the therapist to submit quarterly written reports to the board concerning petitioner's fitness to practice, progress in treatment and to provide such other information as may be required by the board.

If the therapist finds that petitioner is not psychologically fit to practice safely, or can only practice with restrictions, the therapist shall notify the board, in writing, within five working days. The board shall notify petitioner in writing of the therapist's determination of unfitness to practice and shall order petitioner to cease or restrict licensed activities as a condition of probation. Petitioner shall comply with this condition until the board is satisfied of petitioner's fitness to practice safely and has so notified petitioner. Petitioner shall document compliance with this condition in the manner required by the board.

16. **Abstain from Use of Alcohol** – Petitioner shall completely abstain from the use of alcoholic beverages and products containing alcohol.

DATED: July 7, 2011

EFFECTIVE DATE: July 22, 2011



JOHN VERTIDO, President
Board of Vocational Nursing and Psychiatric
Technicians
Department of Consumer Affairs